

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

February 9, 2009

DIVISION ONE

B202101 In re Justo Avalos on Habeas Corpus (Not for Publication)

The petition is granted, and a writ shall issue vacating the Governor's decision, reinstating the Board's decision, and ordering Avalos's immediate release.

Mallano, P.J.

I concur: Jackson, J. (Assigned)

B203733 Henry C. Yuen
 v.
 Molly H. Yuen

Filed order denying petition for rehearing.

1004965-09

The Honorable **RONALD LAWRENCE BAUER**, Judge of the Superior Court of California, County of Orange, is hereby assigned to assist the Court of Appeal, Second Appellate District, Division One, as a justice thereof, on the following dates:

March 1, 2009 to April 30, 2009

and until completion and disposition of all causes and matters submitted pursuant to this assignment including, if necessary by reason of a vacancy or disqualification of a Court of Appeal Justice, all petitions for rehearing arising out of such causes and matters. This assignment does not extend to any matter in which the panel would be composed of two justices pro tempore.

Ronald M George
Chief Justice of California and

DIVISION TWO

Court convened at 9:45 a.m.

Present: Boren, P.J., Doi Todd, J., Ashmann-Gerst, J., Chavez, J. and Joyce Hatter, Deputy Clerk.

B206146 People
v.
Foster

Merits:

Argued by Richard L. Fitzer for appellant and by Susan S. Kim, Deputy Attorney General for respondent. Cause submitted.

Court adjourned.

B205880 Pfahler (Not for Publication)
v.
Wallace, et al.

The judgment is affirmed. Respondent(s) to recover costs.

Flier, J. (Assigned)

I concur: Ashmann-Gerst, Acting P.J.
I concur: Chavez, J. (Opinion)

DIVISION THREE

B203236 People (Not for Publication)
v.
Lee Paul Schroeder

The judgment is reversed. The matter is remanded for retrial.

Klein, P.J.

We concur: Kitching, J.
 Aldrich, J.

DIVISION THREE (continued)

B202403 People (Not for Publication)
v.
Brian Leigh Tobias

The judgment is affirmed.

Klein, P.J.

We concur: Kitching, J.
 Aldrich, J.

B201539 Cooner Sales Company, LLC (Not for Publication)
v.
New England Electric Wire Corporation, et al.

The judgment is reversed and remanded to the trial court with directions to vacate the order confirming the 2007 (fourth) arbitration award, to vacate the order denying the petition to confirm the 2004 (third) arbitration award and to enter a new and different order granting the petition to confirm the 2004 (third) arbitration award, and upon confirmation of the 2004 (third) arbitration award to enter a judgment reflecting those orders pursuant to Code of Civil procedure section 1287.4. Costs on appeal are awarded to appellant Cooner Sales Company, LLC.

Kitching, J.

We concur: Klein, P.J.
Aldrich, J.

February 9, 2009 (Continued)

DIVISION THREE (continued)

B200628 Auerbach (Not for Publication)
v.
Trasamerica Occidental Life Insurance Co., et al.

The order of dismissal is affirmed. Costs on appeal are awarded to defendants.

Kitching, J.

We concur: Croskey, Acting P.J.
 Aldrich, J.

B206526 Flaherty (Not for Publication)
v.
Jordan

The order is affirmed. Costs on appeal are awarded to plaintiff Maureen Flaherty.

Kitching, J.

We concur: Klein, P.J.
Aldrich, J.

DIVISION FOUR

B203935 People
v.
Graff

Filed order modifying opinion. (No change in the judgment)

DIVISION FIVE

B205731 Ken Cotton (Certified for Publication)
v.
Expo Power Systems, Inc., et al.

The order is reversed and remanded to the trial court with directions to obtain an appraisal taking into account the effect of the pending litigation on the fair value of Expo as of November 2003, or in the alternative, to allow the parties to litigate that issue before the court. The parties are to bear their own costs on appeal.

Kriegler, J.

We concur: Turner, P.J.
 Mosk, J.

B205337 Jerry Jamgotchian (Certified for Publication)
v.
George D. Slender

The judgment is reversed. Appellant Jerry Jamgotchian is awarded his costs on appeal.

Kriegler, J.

We concur: Turner, P.J.
 Mosk, J.

DIVISION SEVEN

B206220 Los Angeles County, D.C.F.S. (Not for Publication)
v.
Shawn L.

The appeal is dismissed.

Woods, Acting P.J.

We concur: Zelon, J.
 Jackson, J.

B205521 Neuwirth (Not for Publication)
v.
Silverstein et al.,

The judgment in favor of Silverstein and Beinin and order granting their special motions to strike are reversed. The matter is remanded to the trial court with instructions to enter a new and different order granting Silverstein's motion as to the second cause of action only, denying Silverstein's motion as to the first cause of action and denying Beinin's motion as to the second cause of action. As to the second cause of action only, Silverstein is entitled to his costs and attorneys' fees pursuant to section 425.16, subdivision (c). As to the first cause of action against Silverstein and the second cause of action against Beinin, Neuwirth is entitled to her costs on appeal.

Woods, Acting P.J.

We concur: Zelon, J.
 Jackson, J.

B195952 D & M Construction
v.
Washington International Insurance Co. et al.,

Filed order denying petition for rehearing.

DIVISION EIGHT

B207677 People (Not for Publication)
v.
Robledo

The judgment is affirmed.

O'Neill, J. (Assigned)

We concur: Flier, Acting P.J.
Bigelow, J.

B207152 People (Not for Publication)
v.
Sedano

The judgment is vacated and the case is remanded to the trial court, which is directed to permit Sedano the opportunity to withdraw his plea upon proper motion. In the event Sedano chooses not to withdraw his plea, the trial court is directed to reevaluate whether to reduce the vandalism charge to a misdemeanor, explain its reason if it does reduce the charge, and resentence Sedano consistent with this opinion.

O'Neill, J. (Assigned)

We concur: Flier, Acting P.J.
Bigelow, J.

B203999 A. H. (Not for Publication)
v.
County of Los Angeles et al.,

The judgment of dismissal is affirmed. Respondents are entitled to costs on appeal.

O'Neill, J. (Assigned)

We concur: Flier, Acting P.J.
Bigelow, J.

February 9, 2009 (Continued)

DIVISION EIGHT (continued)

B208109 Los Angeles County, D.C.F.S. (Not for Publication)
 v.
 P. J.,

The order under review is affirmed.

O'Neill, J. (Assigned)

We concur: Rubin, Acting P.J.
 Bigelow, J.

1004965-09

The Honorable **Ronald Lawrence Bauer**, Judge of the Superior Court of California, County of Los Angeles, is hereby assigned to assist the Court of Appeal, Second Appellate District, **Division Eight**, as a justice thereof, on the following dates:

March 1, 2009 to April 30, 2009

and until completion and disposition of all causes and matters submitted pursuant to this assignment including, if necessary by reason of a vacancy or disqualification of a Court of Appeal Justice, all petitions for rehearing arising out of such causes and matters. This assignment does not extend to any matter in which the panel would be composed of two justices pro tempore.

February 2, 2009

Ronald M George
Chief Justice of California and
Chairperson of the Judicial Council